

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

IN RE PORK ANTITRUST LITIGATION

No. 0:21-md-02998-JRT-HB

SUBWAY PROTEIN LITIGATION CORP.,
AS LITIGATION TRUSTEE OF THE
SUBWAY® PROTEIN LITIGATION TRUST,

No. 0:21-cv-01605-JRT-HB

Plaintiff,

v.

AGRI STATS, INC., *et al.*,

Defendants.

**[PROPOSED] ORDER ADOPTING
STIPULATION CONCERNING WAIVER OF SERVICE**

This matter is before the Court on the parties’ Stipulation Concerning Waiver of Service (ECF No. 49). Stipulating Plaintiff filed a Complaint against Stipulating Defendants on June 24, 2021 in the matter of *Subway Protein Litigation Corp. v. Agri Stats, Inc., et al.*, Case No. 0:21-cv-01605, ECF No. 1 (the “Complaint”). Stipulating Plaintiff was transferred to this District pursuant to [28 U.S.C. § 1407](#) for centralized pretrial proceedings on July 12, 2021. (MDL No. 2998, ECF No. 64 (J.P.M.L. July 12, 2021).)

On July 1, 2021, the Court ordered the MDL Direct Action Plaintiffs (“MDL DAPs”) and Defendants to file their scheduling and coordination proposals. (Case No. 0:21-md-02998, ECF No. 3.) On July 8, 2021, MDL DAPs and Defendants filed their coordination and scheduling proposals. (ECF Nos. 4-5.) The Court held a status

conference on these proposals on July 14, 2021. On August 5, 2021, the Court ordered the Direct Purchaser Plaintiffs from Case No. 0:18-cv-1776, MDL DAPs, and Defendants to “file simultaneous briefs addressing the question of consolidation” of the MDL DAPs with Case No. 0:18-cv-1776. (ECF No. 23.) On August 19, 2021, the parties filed briefs regarding consolidation versus coordination. (ECF Nos. 31-37.) An order has not yet been issued on those proposals.

In view of the above, the parties in the above-styled action, through counsel, having stipulated and agreed, and the Court being fully advised,

IT IS HEREBY ORDERED THAT:

1. The Stipulation between Subway Protein Litigation Corp., as Litigation Trustee of the Subway® Protein Litigation Trust (“Stipulating Plaintiff”) and Defendants Agri Stats, Inc.; Clemens Food Group, LLC; The Clemens Family Corporation; Hormel Foods Corporation; Hormel Foods, LLC; JBS USA Food Company; Seaboard Foods LLC; Smithfield Foods, Inc.; Triumph Foods, LLC; Tyson Foods, Inc.; Tyson Prepared Foods, Inc.; and Tyson Fresh Meats, Inc. (collectively, “Stipulating Defendants”) filed on October 7, 2021, is adopted.

2. This Order and the Stipulation relate only to the Complaint filed in *Subway Protein Litigation Corp. v. Agri Stats, Inc., et al.*, Case No. 0:21-cv-01605, ECF No. 1.

3. Stipulating Defendants have waived service of the Complaint pursuant to Federal Rule of Civil Procedure 4(d), and the Stipulation shall be deemed proof of that waiver pursuant to Federal Rule of Civil Procedure 4(d)(4).

4. Stipulating Plaintiff has agreed that the deadline for Stipulating Defendants to answer or respond to the Complaint may be extended pending the Court's resolution of the above-described scheduling issues. Accordingly, the Stipulating Defendants' responses to the Complaint must be filed no later than sixty (60) days after the Court's ruling on the above-described scheduling issues, unless otherwise ordered by the Court or agreed between Stipulating Plaintiff and Stipulating Defendants.

5. The Stipulation does not constitute a waiver by the Stipulating Defendants of any defense, including but not limited to those defenses provided under Federal Rule of Civil Procedure 12. Nothing in the Stipulation or in this Order precludes Stipulating Defendants from filing one or more motions under Federal Rule of Civil Procedure 12(b).

SO ORDERED:

DATED: _____

HILDY BOWBEER
United States Magistrate Judge